

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re

SKS Bottle and Packaging, Inc.,

Debtor.

Chapter 11
Case No. 24-11283

EMERGENCY APPLICATION TO SHORTEN TIME PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9006(c) FOR NOTICE OF HEARING FOR DEBTOR’S MOTION FOR ENTRY OF ORDERS: (A)(I) APPROVING BIDDING PROCEDURES IN CONNECTION WITH THE PROPOSED SALE OF SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS, (II) SCHEDULING AN AUCTION AND HEARING TO CONSIDER THE SALE, (III) APPROVING THE FORM AND MANNER OF NOTICE THEREOF, AND (IV) APPROVING THE APA; (B)(I) AUTHORIZING AND APPROVING THE SALE OF ASSETS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS, AND (II) AUTHORIZING AND APPROVING THE ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (C) GRANTING RELATED RELIEF

The Debtor and Debtor-in-Possession SKS Bottle and Packaging, Inc. (“Debtor”), by and through its attorneys, Whiteman Osterman & Hanna LLP, hereby makes this emergency application to the Court for an Order pursuant to F.R.B.P. 9006(c) shortening the time for notice of hearing (the “Application”) on the Debtor’s *Motion for Entry of Orders: (A)(I) Approving Bidding Procedures in Connection with the Proposed Sale of Substantially All of the Debtor’s Assets, (II) Scheduling an Auction and Hearing to Consider The Sale, (III) Approving the Form and Manner of Notice Thereof, and (IV) Approving the APA; (B)(I) Authorizing and Approving the Sale of Assets Free And Clear Of Liens, Claims, Encumbrances, and Interests, and (II) Authorizing and Approving the Assumption and Assignment of Executory Contracts and Unexpired Leases; and (C) Granting Related Relief* (the “Motion”).

1. Ordinarily, this Motion would require at least 21-days’ notice pursuant to Local Bankruptcy Rule 9013-1(5).

2. By this emergency application, the Debtor seeks to shorten notice for the hearing on the Motion such that it is held on or before February 21, 2025.

3. The Debtor submits that there is cause to shorten notice in order to ensure that the Debtor is able to proceed with the proposed sale of the substantially all of its assets.

4. Pursuant to the Stalking Horse APA, the Bidding Procedures must be approved no later than February 21, 2025. This accelerated schedule is driven by the fact that the Debtor will soon be unable to continue to operate and pay its employees. If the Debtor is forced to cease operating, that would jeopardize a sale of its assets that would realize any return for unsecured creditors in this case.

5. Moreover, the Debtor's lease with GMES for its principal place of business in Saratoga Springs, NY has already expired and GMES has only temporarily agreed not to pursue an eviction. Additionally, GMES's administrative claim increases each day that the Debtor occupies the space prior to a sale, which further diminishes the potential proceeds of a sale that would be available for distribution. Even on this accelerated schedule, the entire sale process as proposed in the Bidding Procedures will take several weeks. For this reason, it is absolutely critical that the Court grant this application, and approve the Bidding Procedures on or before February 21, 2025.

6. The Debtor respectfully requests that the Court waive the notice requirements imposed by Bankruptcy Rule 6004(a) and the fourteen-day stay imposed by Bankruptcy Rule 6004(h), as the exigent nature of the relief sought herein justifies immediate relief.

7. To the extent that any aspect of the relief sought within the First Day Motions constitutes a use of property under Bankruptcy Code section 363(b), the Debtor seeks a waiver of

the notice requirements under Bankruptcy Rule 6004(a) and the fourteen day stay under Bankruptcy Rule 6004(h), to the extent applicable. *See* Fed. R. Bankr. P. 6004(a), (h).

8. For all of these reasons, the Debtor respectfully requests that the Court shorten notice for the hearing on the Motion such that it is heard on or before February 21, 2025.

WHEREFORE, the Debtor respectfully requests that the Court enter an Order shortening time pursuant to F.R.B.P. 9006(c) for notice of the hearing on the Debtor's Motion on or before February 21, 2025, and granting such other and further relief as may be deemed just, necessary and proper.

Dated: Albany, New York
February 19, 2024

WHITEMAN OSTERMAN & HANNA LLP

By: /s/Justin Heller
Justin A. Heller, Esq
*Attorneys for SKS Bottle and
Packaging, Inc.*
80 State Street, 11th Floor
Albany, New York 12207